

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ROBERT L. MURRAY,

Plaintiff,

-against-

9:09-CV-872 (LEK/GHL)

CLAYTON FOSTER, *Correctional Officer*; JOHN DOE

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on June 11, 2010, by the Honorable George H. Lowe, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 21).

Within fourteen days after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Magistrate Judge Lowe's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 21) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further  
**ORDERED**, that Defendant's Motion to dismiss (Dkt. No. 16) is **GRANTED in part and**

**DENIED in part;** and it is further

**ORDERED**, that Plaintiff's Fourteenth Amendment due process claim is dismissed without prejudice; and it is further

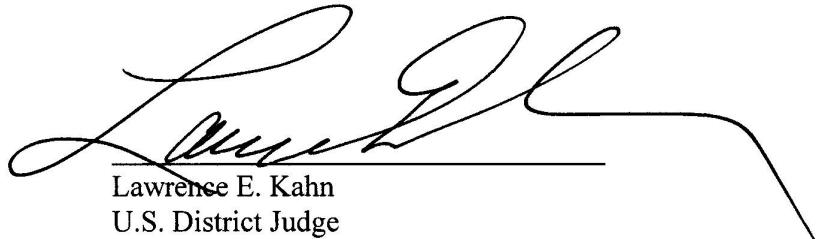
**ORDERED**, that Plaintiff's Eighth Amendment claim is dismissed without prejudice; and it is further

**ORDERED**, that Defendant Foster is directed to answer Plaintiff's First Amendment retaliation claim; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: July 06, 2010  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge